



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/995,713	12/22/97	KAIB	T 970118

JOHN E GROSSELIN III
BUCHANAN INGERSOLL PC
ONE OXFORD CENTRE
301 GRANT STREET 20TH FLOOR
PITTSBURGH PA 15219

MM61/1001

EXAMINER

TSO, E

ART UNIT

PAPER NUMBER

2838

DATE MAILED:

10/01/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/995,713

Applicant(s)
Kaib et al.

Examiner
Edward H Tso

Group Art Unit
2838



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-29 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-29 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2838

DETAILED ACTION

Information Disclosure Statement (IDS)

1. The IDS filed 3/27/98 has been considered and placed of record. An initialed copy is attached herewith.

Specification

2. The disclosure should be carefully reviewed to ensure that any and all grammatical, idiomatic, and spelling or other minor errors are corrected.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 9, 14, 17-25, 28 and 29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **IKEDA et al.** (US 5,306,956).

Art Unit: 2838

Claim Rejections - 35 USC § 103

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over **IKEDA et al.** (US 5,306,956) in view of **ANGEL et al.** (US 4,432,375). The document '956 does not specifically disclose the battery management system be used in a defibrillation system. However, the document '375 discloses a method and an apparatus for analyzing cardiac electrical activity wherein the patient data may be inputted into the device so it can tailor the treatment. The device may be battery operated. Therefore it would have been obvious to one having ordinary skill in the art to have replaced the video of '956 with the defibrillator of '375 since it has been held

Art Unit: 2838

to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

7. Claims 7, 8, 10-13, 15, 16, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **IKEDA et al.** (US 5,306,956) in view of **ANGEL et al.** (US 4,432,375) and further in view of **HULL et al.** (US 5,606,242).

Both documents '956 and '375 do not disclose such information as the charge/discharge cycle, the charge time and display such info. The document '242 teaches the use of displaying such info so that a user may readily make enquiry. It would have been obvious to one having ordinary skill in the art to have used such info for the purpose of tracking the life of the battery.

It would also would have been obvious to one having ordinary skill in the art to have used a real time clock for the purpose of tracking the life cycle of the battery. It would have been obvious to one having ordinary skill in the art to have incorporated a real time clock so that accuracy life count of the battery may be monitored since it is being used within a human body.

Conclusion

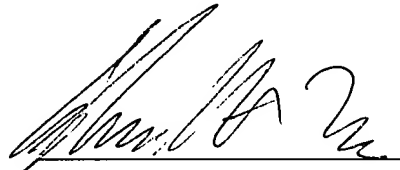
8. Any inquiry concerning this communication should be directed to the Examiner at the below-listed number on Mon-Thurs, 0630 to 1700, EST.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Peter S. Wong, can be reached on 703 305 3477. The fax numbers for this Technology Center 2800 are 703 305 3432 and 703 308 7722.

Art Unit: 2838

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703 308 1782, Mon-Fri, 0830 to 1700, EST.

By:

A handwritten signature in black ink, appearing to read 'Edward H TSO', written over a horizontal line.

EDWARD H TSO
Primary Examiner
703 308 2823 (Voice)
703 305 7723 (Fax)